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9 Nevada State Bank and Greg Barrington

10  
11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF NEVADA

13 ACHYUTA P. CHAUDHURI,

14 Plaintiff,

15 vs.

16 GREG BARRINGTON, SVP, NEVADA  
17 STATE BANK, A NEVADA BANKING  
18 CORPORATION,

19 Defendants.

20 Case No. 2:11-CV-01320-PMP-RJJ

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22 DEFENDANTS' REQUEST TO EXCUSE  
23 INDIVIDUALLY-NAMED DEFENDANT  
24 GREG BARRINGTON FROM  
25 ATTENDANCE AT ENE SESSION

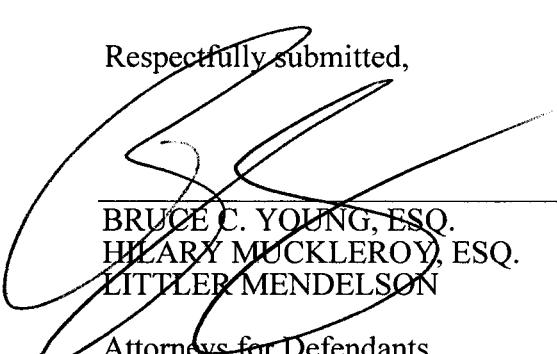
26 COME NOW Defendants Nevada State Bank ("NSB") and Gregory Barrington, by and  
27 through their counsel, Littler Mendelson, and hereby request the Court to allow individual Defendant  
28 Gregory Barrington to be excused from attending the ENE session scheduled for November 22,  
2011.

Plaintiff's claims brought against Defendant Barrington are untenable against him as an  
individual as a matter of law. Specifically, it is well-established that claims against an individual  
supervisory defendant for alleged violations of Title VII and for wrongful termination in violation of  
Nevada public policy are not legally viable because the supervisory employee is not considered to be  
the statutory "employer." *See Miller v. Maxwell's Int'l Inc.*, 991 F.2d 583 (9<sup>th</sup> Cir. 1993); *Pink v. Modoc Indian Health Project*, 157 F.3d 1189, 1189 (9<sup>th</sup> Cir. 1998), cert. den., 528 U.S. 877 (1999);  
*Bigelow v. Bullard*, 111 Nev. 1178, 1185 (1995).

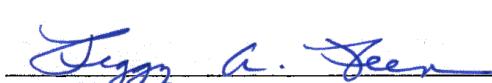
1 Defendants filed a Motion to Dismiss Plaintiff's Complaint on October 12, 2011 (**Dkt #9**).  
2 That motion has been fully briefed and a hearing has been set by the Court for January 5, 2012 (**Dkt**  
3 **#12**). Based on the fact that there is an extremely high likelihood that the claims brought against  
4 Defendant Barrington will be dismissed as a matter of law, it is Defendant NSB's position that it not  
5 necessary to inconvenience Defendant Barrington by requiring his attendance at the ENE  
6 conference. Further, Defendant NSB's corporate representative will be personally present at the  
7 ENE conference and will have settlement authority to settle the action on behalf of Defendant NSB  
8 as well as Defendant Barrington. Accordingly, Defendants respectfully request that Defendant  
9 Barrington be excused from attendance at the ENE.

10 Dated: November 14, 2011

11 Respectfully submitted,

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13 BRUCE C. YOUNG, ESQ.  
14 HILARY MUCKLEROY, ESQ.  
15 LITTLER MENDELSON

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18 IT IS SO ORDERED.  
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20 Dated this 16th day of November, 2011.

21   
PEGGY A. LEEN  
22 UNITED STATES MAGISTRATE JUDGE  
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## **PROOF OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada, 89169. On November 14, 2011, I served the within document(s):

**DEFENDANTS' REQUEST TO EXCUSE INDIVIDUALLY-NAMED  
DEFENDANT GREG BARRINGTON FROM ATTENDANCE AT ENE SESSION**

By CM/ECF Filing – Pursuant to FRCP 5(b)(3) and LR 5-4, the above-referenced document was electronically filed and served upon the parties listed below through the Court’s Case Management and Electronic Case Filing (CM/ECF) system:

By United States Mail – a true copy of the document(s) listed above for collection and mailing following the firm’s ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Las Vegas, Nevada addressed as set forth below.

Achyuta P. Chaudhuri  
2720 W. Serene Ave., Apt 2082  
Las Vegas, Nevada 89123

**Plaintiff**

I am readily familiar with the firm's practice of collection and processing correspondence for mailing and for shipping via overnight delivery service. Under that practice it would be deposited with the U.S. Postal Service or if an overnight delivery service shipment, deposited in an overnight delivery service pick-up box or office on the same day with postage or fees thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 14, 2010, at Las Vegas, Nevada.

  
Maribel Rodriguez

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